

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Cable One, Inc.)	CSR 6366-E, 6367-E, 6368-E, 6369-E
)	
MCC Iowa, LLC)	CSR 6435-E, 6437-E, 6450-E,
)	6479-E, 6483-E, 6638-E, 6641-E, 6644-E,
)	6645-E, 6646-E, 6655-E, 6659-E
)	
MCC Iowa, LLC & Mediacom Iowa, LLC)	CSR 6436-E, 6642-E, 6643-E, 6649-E
)	
Mediacom Iowa, LLC)	CSR 6590-E, 6647-E, 6648-E
)	
MCC Iowa, LLC & MCC Illinois, LLC)	CSR 6601-E
)	
)	
Twenty-Four Unopposed Petitions for)	
Determination of Effective Competition in 85 Local)	
Franchise Areas)	

MEMORANDUM OPINION AND ORDER

Adopted: May 18, 2005

Released: May 19, 2005

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. This Order considers twenty-four unopposed petitions which cable operators (the “Cable Operators”) have filed with the Commission pursuant to Sections 76.7, 76.905(b)(2) and 76.907 of the Commission's rules for a determination that such operators are subject to effective competition pursuant to Section 623(1) of the Communications Act of 1934, as amended (“Communications Act”),¹ and the Commission's implementing rules,² and are therefore exempt from cable rate regulation in the communities listed in Attachment A (the “Communities”). No opposition to any petition was filed. Finding that the Cable Operators are subject to effective competition in the listed Communities, we grant the petitions.

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be

¹ 47 U.S.C. § 543(1).

² 47 C.F.R. § 76.905(b)(4).

subject to effective competition,³ as that term is defined by Section 623(1) of the Communications Act of 1934, as amended, and Section 76.905 of the Commission's rules.⁴ The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area.⁵

II. DISCUSSION

A. Competing Provider Effective Competition

3. Section 623(l)(1)(B) of the Communications Act provides that a cable operator is subject to effective competition if its franchise area is (a) served by at least two unaffiliated multi-channel video programming distributors ("MVPD") each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (b) the number of households subscribing to programming services offered by MVPDs other than the largest MVPD exceeds fifteen percent of the households in the franchise area.⁶ Turning to the first prong of this test, we find that the DBS service of DirecTV Inc. ("DirecTV") and DISH Network ("Dish") is presumed to be technically available due to its nationwide satellite footprint, and presumed to be actually available if households in a franchise area are made reasonably aware that the service is available.⁷ The two DBS providers' subscriber growth reached approximately 23.16 million as of June 30, 2004, comprising approximately 23 percent of all MVPD subscribers nationwide; DirecTV has become the second largest, and DISH the fourth largest, MVPD provider.⁸ In view of this DBS growth data, and the data discussed below showing that more than 15 percent of the households in each of the communities listed on Attachment A are DBS subscribers, we conclude that the population of the communities at issue here may be deemed reasonably aware of the availability of DBS services for purposes of the first prong of the competing provider test. With respect to the issue of program comparability, we find that the programming of the DBS providers satisfies the Commission's program comparability criterion because the DBS providers offer substantially more than 12 channels of video programming, including more than one non-broadcast channel.⁹ We further find that the Cable Operators have demonstrated that the Communities are served by at least two unaffiliated MVPDs, namely the two DBS providers, each of which offers comparable video programming to at least 50 percent of the households in the franchise area. Therefore, the first prong of the competing provider test is satisfied.

4. The second prong of the competing provider test requires that the number of households subscribing to MVPDs, other than the largest MVPD, exceed 15 percent of the households in a franchise area. The Cable Operators sought to determine the competing provider penetration in the Communities by purchasing a subscriber tracking report that identified the number of subscribers attributable to the DBS providers within the Communities on a zip code basis. The Cable Operators assert that they are the largest MVPD in the Communities because their subscribership exceeds the aggregate DBS

³ 47 C.F.R. § 76.906.

⁴ See 47 U.S.C. § 543(1) and 47 C.F.R. § 76.905.

⁵ See 47 C.F.R. §§ 76.906 & 907.

⁶ 47 U.S.C. § 543(1)(1)(B); see also 47 C.F.R. § 76.905(b)(2).

⁷ See *MediaOne of Georgia*, 12 FCC Rcd 19406 (1997).

⁸ *Eleventh Annual Assessment of the Status of Competition in the Market for Delivery of Video Programming*, FCC 05-13, at ¶¶54-55 (rel. Feb. 4, 2005).

⁹ See 47 C.F.R. § 76.905(g).

subscribership for those franchise areas. Based upon the aggregate DBS subscriber penetration levels as reflected in Attachment A, calculated using 2000 Census household data, we find that the Cable Operator's have demonstrated that the number of households subscribing to programming services offered by MVPDs, other than the largest MVPD, exceeds 15 percent of the households in the Communities. Therefore, the second prong of the competing provider test is satisfied. Based on the foregoing, we conclude that the Cable Operators have submitted sufficient evidence demonstrating that their cable systems serving the Communities set forth on Attachment A are subject to competing provider effective competition.

B. Low Penetration Effective Competition

5. Section 623(l)(1)(A) of the Communications Act provides that a cable operator is subject to effective competition, and therefore exempt from cable rate regulation, if "fewer than 30 percent of the households in the franchise area subscribe to the cable service of the cable system."¹⁰ The Cable Operator listed on Attachment A provided information showing that less than 30 percent of the households within the franchise areas subscribe to its cable services. Accordingly, we conclude that the Cable Operator has demonstrated the existence of low penetration effective competition under our rules.

6. Based on the foregoing, we conclude that the Cable Operators listed on Attachment A have submitted sufficient evidence to demonstrate that their cable systems are subject to effective competition.

III. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that the petitions filed by the Cable Operators listed on Attachment A for a determination of effective competition in the Communities listed thereon **ARE GRANTED**.

8. **IT IS FURTHER ORDERED** that the certifications to regulate basic cable service rates granted to any of the local franchising authorities overseeing the Cable Operators **ARE REVOKED**.

9. This action is taken pursuant to authority delegated under Section 0.283 of the Commission's rules.¹¹

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broecker
Deputy Chief, Policy Division, Media Bureau

¹⁰47 U.S.C § 543(l)(1)(A).

¹¹47 C.F.R. § 0.283.

Attachment A

Cable Operators Subject to Competing Provider Effective Competition**CABLE ONE, INC.: CSR 6366-E, 6367-E, 6368-E & 6369-E**

Communities	CUIDS	CPR*	2000 Census Households⁺	DBS Subscribers⁺
Chanute	KS0003	15.03%	3,864	581
Independence	KS0004	19.08%	4,149	792
Neodesha	KS0005	21.71%	1,142	248
Montgomery County	KS0359	21.10%	3,739	789
Emporia	KS0001	15.37%	10,253	1,576
Emporia (uninc. Lyon)	KS 0626	43.43%	2,321	1,008
Parsons	KS0006	15.50%	4,738	734

MCC IOWA, LLC: CSR 6435-E, 6437-E, 6450-E, 6479-E, 6483-E, 6638-E, 6641-E, 6644-E, 6645-E, 6646-E, 6655-E, 6659-E

Communities	CUIDS	CPR*	2000 Census Households⁺	DBS Subscribers⁺
Denison	IA0016	25.02%	2,674	669
Red Oak	IA0038	15.58%	2,670	416
Villisca	IA0484	18.75%	576	108
Altoona	IA0124	26.47%	3,850	1,019
Bondurant	IA0196	25.04%	659	165
Carlisle	IA0122	22.20%	1,338	297
	IA0963			
Clive	IA0039	19.99%	4,752	950
	IA0964			
Des Moines	IA0036	15.82%	80,504	12,738
Grimes	IA0394	32.06%	1,887	605
Indianola	IA0105	16.76%	4,748	796
Johnston	IA0123	23.97%	3,216	771

Norwalk	IA0126	23.42%	2,344	549
Pleasant Hill	IA0125	24.16%	1,900	459
Urbandale	IA0032	19.64%	11,484	2,255
	IA0968			
W. Des Moines	IA0041	15.45%	19,826	3,064
	IA0966			
Nevada	IA0143	20.14%	2716	547
Camanche	IA0062	15.78%	1,781	281
Dewitt	IA0101	17.14%	2,071	355
Erie	IA0333	19.05%	630	120
Lyndon	IA1054	21.19%	236	50
Prophetstown	IA0332	22.13%	809	179
Lisbon	IA0200	25.82%	728	188
Mount Vernon	IA0199	19.13%	1,129	216
North Liberty	IA0383	20.85%	2,259	471
Solon	IA0384	21.01%	457	96
Swisher	IA0444	15.36%	306	47
Tiffin	IA0679	20.45%	440	90
West Branch	IA0244	17.26%	840	145
West Liberty	IA0167	28.52%	1,150	328
Barnum	IA0719	41.79%	67	28
Clare	IA0720	34.18%	79	27
Dakota City	IA0063	21.07%	356	75
Humboldt	IA0043	27.23%	1,965	535
Lake City	IA0359	30.81%	779	240
Manson	IA0168	26.41%	814	215
Rockwell City	IA0363	28.12%	818	230

Sac City	IA0017	17.84%	1,082	193
Webster City	IA0072	22.42%	3,502	785
Dallas Ctr	IA0511	26.90%	591	159
DeSoto	IA0508	17.11%	374	64
Earlham	IA0358	20.57%	491	101
Granger	IA0402	15.10%	245	37
Perry	IA0089	31.90%	2,831	903
Van Meter	IA0516	22.09%	326	72
Boone	IA0077	21.49%	5,313	1,142
Polk City	IA0361	36.68%	826	303
Columbus Jctn	IA0230	42.84%	691	296
Morning Sun	IA0382	17.46%	338	59
Wapello	IA0249	27.87%	836	233
Hartford	IA0610	24.72%	271	67
Ottumwa	IA0022	18.14%	10,383	1,883
Agency	IA0197	33.09%	272	90

MCC IOWA, LLC & MEDIACOM IOWA LLC: CSR 6436-E, 6642-E, 6643-E, 6649-E

Communities	CUIDS	CPR*	2000 Census	DBS
			Households ⁺	Subscribers ⁺
Edgewood	IA0314	25.55%	364	93
	IA0315			
Fairbank	IA0272	26.79%	418	112
	IA0273			
Maynard	IA0439	17.57%	222	39
Oelwein	IA0131	22.08%	2,808	620

Strawberry Pt	IA0192	16.95%	531	90
Vinton	IA0138	34.12%	2,116	722
Newhall	IA0345	44.17%	360	159
Hampton	IA0368	26.67%	1,766	471
Rockwell	IA0335	19.95%	371	74
Sheffield	IA0333	20.87%	369	77
Dike	IA0387	19.53%	379	74
Parkersburg	IA0505	18.13%	811	147

MEDIACOM IOWA LLC: CSR 6590-E, 6647-E, 6648-E

		2000 Census		DBS
Communities	CUIDS	CPR*	Households⁺	Subscribers⁺
New Sharon	IA0767	24.44%	540	132
Keota	IA0542	24.19%	430	104
Sigourney	IA0191	23.70%	903	214
What Cheer	IA0347	16.61%	307	51
North English	IA0217	30.15%	408	123
	IA0218			
Williamsburg	IA0193	30.22%	1,072	324

MCC IOWA, LLC & MCC ILLINOIS, LLC: CSR 6601-E

Communities	CUIDS	CPR*	2000 Census Households⁺	DBS Subscribers⁺
Le Claire	IA0160	22.74%	1,104	251
Cleveland	IL1116	23.40%	94	22
Coal Valley	IL0353	22.36%	1,373	307
Colona	IL0410	22.83%	1,936	442
Milan	IL0182	17.27%	2,310	399
Orion	IL0409	18.85%	695	131

Cable Operator Subject to Low Penetration Effective Competition**MCC IOWA, LLC: CSR-6645-E, 6646-E**

Communities	Franchise Area Households	Cable Subscribers	Penetration Level
Woodward	290	139	28.37%
Fredonia	87	25	28.74%

CPR= Percent DBS penetration

+ = See Cable Operator Petitions